



DOCKET NO.: BIOD-0026

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Jeffrey L. Garwin

Confirmation No.: 9289

Application No.: 09/989,092

Group Art Unit: 1654

Filing Date: November 19, 2001

Examiner: Winston, Randall O.

For: Composition and Methods for Detecting Pre-Cancerous Conditions in Cell and Tissue Samples Using 5, 10, 15, 20-Tetrakis (Carboxyphenyl) Porphine

MS Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED IN NOTICE OF ALLOWANCE PURSUANT TO 37 CFR § 1.705

- ☒ This request for reconsideration of the patent term adjustment indicated in the Notice of Allowance on June, 2, 2004.
- ☒ The issue fee is being paid as set forth in the papers attached hereto.
- ☒ Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment – Part B." (37 CFR § 1.705(b)(2)(i) and (ii)).

Any patent granted on this application (37 CFR § 1.705(b)(2)(iii)):

- ☐ is not subject to a terminal disclaimer.
- ☐ is subject to a terminal disclaimer, and the expiration date specified in the terminal disclaimer is .

As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 CFR § 1.705(b)(2)(iv)).

- ☒ there were none (37 CFR § 1.705(b)(2)(iv)(B)).
- ☐ these were as follows (37 CFR § 1.705(b)(2)(iv)(A)):
- ☒ Also attached hereto is a "Request for Reinstatement For ☐ All and/or ☒ Part of the Period of Adjustment Reduced Pursuant to § 1.704(b) –Part C." (37 CFR § 1.705(c)).

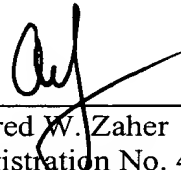
DOCKET NO.:

- 2 -

PATENT

- ☒ A check in the amount of \$200.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 in the amount of \$200.00. This sheet is attached in duplicate.
- ☒ The Commission is hereby authorized to charge payment of the above fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

Date: September 2, 2004

  
\_\_\_\_\_  
Alfred W. Zaher  
Registration No. 42,248

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One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439

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For: **Compositions and Methods for Detecting Pre-Cancerous Conditions in Cell and Tissue Samples Using 5, 10, 15, 20-Tetrakis(Carboxyphenyl) Porphine**

EXPRESS MAIL LABEL NO:  
DATE OF DEPOSIT:

MS Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR REINSTATEMENT FOR ☐ ALL AND/OR ☒ PART OF THE  
PERIOD OF ADJUSTMENT REDUCED  
PURSUANT TO § 1.704(b) (37 CFR § 1.705(c))**

☒ Applicant hereby requests reinstatement for the period of adjustment for the following item(s) reduced pursuant to 37 CFR § 1.704(b):

**PTO Error in Part of Period of Adjustment Reduced Pursuant to § 1.704(b):**

The PTO PALM system incorrectly shows an applicant delay of 12 days based on completion of application requirements (i.e., the filing of a Response to Notice of Missing Parts) purportedly occurring on March 15, 2002.

The 12 day delay is incorrect, as evidenced by the PTO date-stamped postcard receipt (copy attached), showing applicant's timely filing of the Response to Missing Parts (and satisfactory completion of application requirements). The Notice to File Missing Parts was issued by the PTO on December 3, 2001 with Response to Missing Parts timely filed by applicant on **January 28, 2002** and received by the PTO on February 20, 2002. The PTO PALM System incorrectly shows a "Application is Now Complete" as of March 15, 2002. In accordance with 37 CFR § 1.704(b), there is no applicant delay of days.

09/07/2004 RMEBRAH1 00000004 09989092

02 FC:1456

400.00 0P

**Correct Patent Term Adjustment**

The correct patent term adjustment should be: **257 days**

The patent term adjustment is incorrectly noted as 245 days in the Notice of Allowance issued June 2, 2004.

**Calculation of Correct Patent Term Adjustment**

PTO Delay: **257 days**

Patent Application filed November 19, 2001  
First Office Action mailed October 3, 2003

Applicant Delay: **0 days**

Notice to File Missing Parts mailed December 3, 2001  
Response received by PTO: February 20, 2002

**Conclusion**

Applicants believe that the correct patent term adjustment is **257 days: 245 + 12 = 257.**

**Fees**

- ☐ Applicant attaches a showing for each item listed above as to why applicant was in spite of all due care, unable to reply within three months of the date of mailing of the Office communication or request.
- ☒ The fee under 37 CFR 1.18(f) in the amount of **\$400.00** is enclosed for this Reinstatement For ☐ All and/or ☒ Part of the Period of Adjustment Reduced Pursuant to § 1.704(b), 37 CFR § 1.705(c), as noted in the Application for Patent Term Adjustment under 37 CFR § 1.705(b), which is concurrently filed herewith. Please charge any deficiency, or credit any overpayment, now or during the pendency of this application, to Deposit Account No. 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 in the amount of **\$400.00**. This sheet is attached in duplicate.

**DOCKET NO.: BIOD-0026**

**- 3 -**

**PATENT**

- ☒ The Commission is hereby authorized to charge any deficiencies in payment of the above fees, or in any fees during pendency of the application, or to credit any overpayment, to Deposit Account No. 23-3050. This sheet is attached in duplicate.

Date: \_\_\_\_\_

9/2/04



\_\_\_\_\_  
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Docket No. ~~13221~~ <sup>13222</sup> 00014  
In re patent application of:  
Jeffrey L. Garwin, M.D., Ph.D.

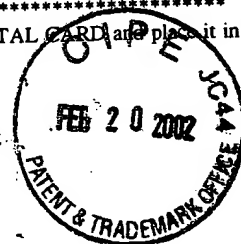
Serial No.: 09/989,092  
Filed: November 19, 2001  
For: Compositions and Methods for  
Detecting Pre-Cancerous Conditions  
In Cell and Tissue Samples Using  
5, 10, 15, 20-Tetrakis (Carboxyphenyl)  
Porphine

: The following items were received by the PTO:  
: PTO  
:-Completion of Filing Requirements For Non-  
: Provisional Application Transmittal w/Cert. of  
: Mailing Stamp in dup.  
:-Copy of Notice to File Missing Parts  
:- Executed Declaration and Power of Attorney  
:-Authorization to Charge Deposit Account

\*\*\*\*\*  
The PTO is respectfully requested to place its STAMP on the POSTAL CARD and place it in the outgoing mail.

RECEIVED  
IP GROUP  
MAR 02 2002  
SAULEWING REMICK  
& SAULLP

Alfred W. Zaher  
Reg. No. 42,248  
Date: January 28, 2002





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STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS(ES)  
UNDER § 1.702 FOR THE ADJUSTMENT  
PURSUANT TO 37 CFR § 1.705(b)(2)(i) and (ii))

☒ This statement is being submitted in support of the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE" to which this statement is attached.

The patent term adjustment shown on the Notice of Allowance is:

245 days

It is respectfully submitted that the correct patent term adjustment under § 1.702 is:

257 days

The basis(es) on which Applicants seek adjustment are as follows:

Adjustment is sought for the following date:	PTO delay 257 days
Applicants' delay days	-0-
Adjustment to be made for this date:	12 Days

Basis: Attached is a copy of the Patent Term Adjustment History of the above-identified patent application, which shows an applicant delay of 12 days. *Applicants believe this calculation of delay is incorrect*, the Notice to File Missing Parts was issued by the PTO on December 3, 2004. The Response to the Notice to File Missing Parts was timely filed by applicant on January 28, 2002 and received by the PTO on February

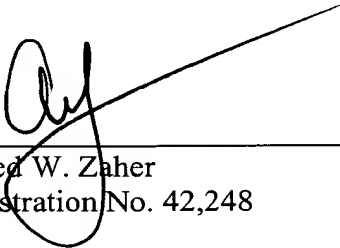
**DOCKET NO.:**

**- 2 -**

**PATENT**

20, 2002 (copy of stamped PTO postcard is attached). The PTO PALM System incorrectly shows an "Application is Now Complete" as of March 15, 2002. In accordance with 37 CFR § 1.074(b), there is no applicant delay of days.

Date: September 2, 2004



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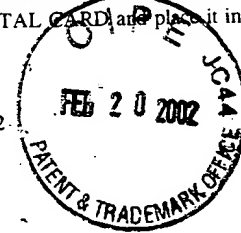
Docket No. 13222  
13221.00014  
In re patent application of:  
Jeffrey L. Garwin, M.D., Ph.D.

Serial No.: 09/989,092  
Filed: November 19, 2001  
For: Compositions and Methods for  
Detecting Pre-Cancerous Conditions  
In Cell and Tissue Samples Using  
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Alfred W. Zaher  
Reg. No. 42,248  
Date: January 28, 2002



Printer Friendly

09/989,092 COMPOSITIONS AND METHODS FOR DETECTING PRE-CANCEROUS CONDITIONS IN CELL

AND TISSUE SAMPLES USING 5, 10, 15, 20-TETRAKIS (CARBOXYPHENYL) PORPHINE

## Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/989,092			
			Days
Filing or 371(c) Date:	11-19-2001	USPTO Delay (PTO):	257
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	12
Post-Issue Petitions (days):	+0	Total PTA:	245
USPTO Adjustment(days):	+0	Explanation Of Calculations	
Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL (Days)
06-02-2004	Mail Notice of Allowance		
06-01-2004	Issue Revision Completed		
06-01-2004	Notice of Allowance Data Verification Completed		
06-01-2004	Notice of Allowability		
04-22-2004	Date Forwarded to Examiner		
04-13-2004	Response after Non-Final Action		
04-13-2004	Workflow incoming amendment IFW		
01-14-2004	Mail Non-Final Rejection		
01-12-2004	Non-Final Rejection		
11-19-2003	Date Forwarded to Examiner		
11-03-2003	Response to Election / Restriction Filed		
10-03-2003	Mail Restriction Requirement	257	
10-02-2003	Requirement for Restriction / Election	↑	
08-28-2003	IFW TSS Processing by Tech Center Complete	↑	
05-28-2003	Information Disclosure Statement (IDS) Filed	↑	
11-21-2002	Correspondence Address Change	↑	
11-21-2002	Change in Power of Attorney (May Include Associate POA)	↑	
10-04-2002	Case Docketed to Examiner in GAU	↑	
03-20-2002	Case Docketed to Examiner in GAU	↑	
03-16-2002	Application Dispatched from OIPE	↑	
03-15-2002	Application Is Now Complete	↑	12
02-27-2002	Information Disclosure Statement (IDS) Filed	↑	
02-20-2002	Payment of additional filing fee/Preexam	↑	↑
02-20-2002	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	↑	↑
12-03-2001	IFW Scan & PACR Auto Security Review	↑	↑
		↑	↑

12-03-2001	Notice Mailed--Application Incomplete-- Filing Date Assigned		
12-03-2001	Correspondence Address Change	↑	
11-26-2001	IFW Scan & PACR Auto Security Review	↑	
11-19-2001	Initial Exam Team nn	↑	

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